

COURT'S STANDARD INSTRUCTIONS TO THE JURY
(Criminal)
(Before Deliberations)

NOTE TO COUNSEL: These are the Court's draft general instructions which are modified to conform to the facts of a case. These are provided to you (i) to avoid your having to submit charges which are covered by the court's general charge (ii) to allow you to request charges to the general charge; and (iii) to advise you where charges particular to this case are given.

It is now my duty to instruct you on the rules of law that you must follow and apply in deciding this case. When I have finished you will go to the jury room and begin your discussions -- what we call your deliberations.

It will be your duty to decide whether the Government has proved beyond a reasonable doubt the specific facts necessary to find the Defendant guilty of the crime charged in the indictment.

DUTY TO FOLLOW INSTRUCTIONS PRESUMPTION OF INNOCENCE

You must make your decision only on the basis of the testimony and other evidence presented here during the trial; and you must not be influenced in any way by either sympathy or prejudice for or against the Defendant or the Government.

You must also follow the law as I explain it to you, whether you agree with that law or not; and you must follow all of my instructions as a whole. You may not single out, or disregard, any of the court's instructions on the law.

The indictment or formal charge[s] against any defendant is not evidence of guilt. Indeed, every defendant is presumed by the law to be innocent. The law does not require a defendant to prove innocence or to produce any evidence at all. The Government has the burden of proving a defendant guilty beyond a reasonable doubt, and if it fails to do so you must find that Defendant not guilty.

**DUTY TO FOLLOW INSTRUCTIONS
PRESUMPTION OF INNOCENCE
(WHEN ANY DEFENDANT DOES NOT TESTIFY)**

You must make your decision only on the basis of the testimony and other evidence presented here during the trial; and you must not be influenced in any way by either sympathy or prejudice for or against the defendant or the Government.

You must also follow the law as I explain it to you whether you agree with that law or not; and you must follow all of my instructions as a whole. You may not single out, or disregard, any of the court's instructions on the law.

The indictment or formal charge[s] against any defendant is not evidence of guilt. Indeed, every defendant is presumed by the law to be innocent. The law does not require a defendant to prove innocence or to produce any evidence at all; and if a defendant elects not to testify, you should not consider that in any way during your deliberations. The Government has the burden of proving a Defendant guilty beyond a

reasonable doubt, and if it fails to do so you must find that defendant not guilty.

DEFINITION OF REASONABLE DOUBT

Thus, while the Government's burden of proof is a strict or heavy burden, it is not necessary that a defendant's guilty be proved beyond all possible doubt. It is only required that the Government's proof exclude any "reasonable doubt" concerning the defendant's guilt.

A "reasonable doubt" is a real doubt, based upon reason and common sense after careful and impartial consideration of all the evidence in the case.

Proof beyond a reasonable doubt, therefore, is proof of such a convincing character that you would be willing to rely and act upon it without hesitation in the most important of your own affairs. If you are convinced that the Defendant has been proved guilty beyond a reasonable doubt, say so. If you are not convinced, say so.

**CONSIDERATION OF THE EVIDENCE, DIRECT
AND CIRCUMSTANTIAL--ARGUMENT OF COUNSEL
COMMENTS BY THE COURT**

As I said earlier, you must consider only the evidence that I have admitted in the case, the term “evidence” includes the testimony of the witnesses and the exhibits admitted in the record. Remember that anything the lawyers say is not evidence in the case. It is your own recollection and interpretation of the evidence that controls. What the lawyers say is not binding upon you. Also, you should not assume from anything I may have said that I have any opinion concerning any of the issues in this case. Except for my instructions to you on the law, you should disregard anything I may have said during the trial in arriving at your own decision concerning the facts.

In considering the evidence you may make deductions and reach conclusions which reason and common sense lead you to make; and you should not be concerned about whether the evidence is direct or circumstantial. “Direct evidence” is the testimony of one who asserts actual knowledge of a fact, such as an eye witness. “Circumstantial

evidence” is proof of a chain of facts and circumstances tending to prove, or disprove, any fact in dispute. Let me give you an example to illustrate the difference. **(Example)**. The law makes no distinction between the weight you may give to either direct or circumstantial evidence.

CREDIBILITY OF WITNESSES

In saying that you must consider all of the evidence, I do not mean that you must accept all of the evidence as true or accurate. You should decide whether you believe what each witness had to say, and how important that testimony was. In making that decision you may believe or disbelieve any witness, in whole or in part. Also, the number of witnesses testifying concerning any particular dispute is not controlling.

In deciding whether you believe or do not believe any witness I suggest that you ask yourself a few questions: Did the witness impress you as one who was telling the truth? Did the witness have a personal interest in the outcome of the case? Did the witness seem to have a good

memory? Did the witness have the opportunity and ability to observe accurately the things he or she testified about? Did the witness appear to understand the questions clearly and answer them directly? Did the witness's testimony differ from other testimony or other evidence?

IMPEACHMENT INCONSISTENT STATEMENT AND FELONY CONVICTION

You should also ask yourself whether there was evidence tending to prove that a witness testified falsely concerning some important fact; or, whether there was evidence that at some other time a witness said or did something, or failed to say or do something, which was different from the testimony the witness gave before you during the trial.

[Felony Offense: The fact that a witness has been convicted of a felony offense, or a crime involving dishonesty or false statement, is another factor you may consider in deciding whether you believe that witness.]

You should keep in mind, of course, that a simple mistake by a witness does not necessarily mean that the witness was not telling the

truth as he or she remembers it, because people naturally tend to forget some things or remember other things inaccurately. So, if a witness has made a misstatement, you need to consider whether it was simply an innocent lapse of memory or an intentional falsehood; and the significance of that may depend on whether it has to do with an important fact or with only an unimportant detail.

DEFENDANT TESTIFIES WITH NO FELONY CONVICTION

A defendant has a right not to testify. If a defendant does testify, however, you should decide, in the same way as that of any other witness, whether you believe the defendant's testimony.

DEFENDANT TESTIFIES WITH FELONY CONVICTION

A defendant has a right not to testify. If a defendant does testify, however, you should decide, in the same way as that of any other witness, whether you believe the defendant's testimony. [Evidence of a defendant's previous conviction of a crime is to be considered by you only in deciding whether you believe or disbelieve the defendant as a witness, and must never be considered as evidence of guilt of the

crime[s] for which the defendant is on trial.]

**IMPEACHMENT
BAD REPUTATION (OR OPINION) CONCERNING
TRUTHFULNESS**

There may also be evidence tending to show that a witness has a bad reputation for truthfulness in the community where the witness resides, or has recently resided; or that others have an unfavorable opinion of the truthfulness of the witness.

You may consider those matters also in deciding whether to believe or disbelieve such a witness.

EXPERT WITNESSES

When knowledge of a technical subject matter might be helpful to the jury, a person having special training or experience in that technical field is permitted to state an opinion concerning those technical matters.

Merely because such a witness has expressed an opinion, however, does not mean that you must accept that opinion. The same as with any other witness, it is up to you to decide whether to rely upon it.

NOTETAKING

In this case you have been permitted to take notes during the course of the trial, and most of you - - perhaps all of you - - have taken advantage of that opportunity and have made notes from time to time.

You will have your notes available to you during your deliberations, but you should make use of them only as an aid to your memory. In other words, you should not give your notes any precedence over your independent recollection of the evidence or the lack of evidence; and neither should you be unduly influenced by the notes of other jurors.

I emphasize that notes are not entitled to any greater weight than the memory or impression of each juror as to what the testimony may have been.

INTRODUCTION TO SPECIFIC OFFENSE INSTRUCTION

At this time I will explain the indictment which charges the defendant with [number] offense[s] [each of] which is called a “count.” I will not read the counts verbatim because you will be given a copy of the indictment for reference during your deliberations.

For you to find the Defendant guilty of any of the counts charged in the indictment, the government must prove to you beyond a reasonable doubt that the Defendant committed each element of the offense. The element of the charge offenses are:

[Add elements of each offense]

ON OR ABOUT--KNOWINGLY--WILLFULLY

You will note that the indictment charges that the offense was committed “on or about” a certain date. The Government does not have to prove with certainty the exact date of the alleged offense. It is sufficient if the Government proves beyond a reasonable doubt that the offense was committed on a date reasonably near the date alleged.

The word “knowingly,” as that term is used in the indictment or in these instructions, means that the act was done voluntarily and intentionally and not because of mistake or accident.

The word “willfully,” as that term is used in the indictment or in these instructions, means that the act was committed voluntarily and purposely, with the specific intent to do something the law forbids; that is with bad purpose either to disobey or disregard the law.

**CAUTION – PUNISHMENT
(SINGLE DEFENDANT – SINGLE COUNT)**

I caution you, members of the Jury, that you are here to determine from the evidence in this case whether the Defendant is guilty or not guilty. The Defendant is on trial only for the specific offense alleged in the indictment.

Also, the question of punishment should never be considered by the jury in any way in deciding the case. If the Defendant is convicted the matter of punishment is for the Judge alone to determine later.

**CAUTION – PUNISHMENT
(SINGLE DEFENDANT – MULTIPLE COUNTS)**

A separate crime or offense is charged in each count of the indictment. Each charge and the evidence pertaining to it should be considered separately. The fact that you may find the defendant guilty or not guilty as to one of the offenses charged should not affect your verdict as to any other offense charged.

I caution you, members of the jury, that you are here to determine from the evidence in this case whether the defendant is guilty or not

guilty. The defendant is on trial only for those specific offenses alleged in the indictment.

Also, the question of punishment should never be considered by the jury in any way in deciding the case. If the defendant is convicted the matter of punishment is for the judge alone to determine later.

**CAUTION – PUNISHMENT
(MULTIPLE DEFENDANTS – SINGLE COUNT)**

A separate crime or offense is charged against each defendant and the evidence pertaining to each defendant should be considered separately and individually. The fact that you may find any one of the defendants guilty or not guilty should not affect your verdict as to any other defendant.

I caution you, members of the jury, that you are here to determine from the evidence in this case whether each defendant is guilty or not guilty. Each defendant is on trial only for the specific offense alleged in the indictment.

Also, the question of punishment should never be considered by the jury in any way in deciding the case. If the defendant is convicted the matter of punishment is for the judge alone to determine later.

**CAUTION – PUNISHMENT
(MULTIPLE DEFENDANTS – MULTIPLE COUNTS)**

A separate crime or offense is charged against one or more of the defendants in each count of the indictment. Each charge, and the evidence pertaining to it should be considered separately. Also, the case of each defendant should be considered separately and individually. The fact that you may find any one or more of the defendants guilty or not guilty of any of the offenses charged should not affect your verdict as to any other offense or any other defendant.

I caution you, members of the jury, that you are here to determine from the evidence in this case whether each defendant is guilty or not guilty. Each defendant is on trial only for the specific offense alleged in the indictment.

Also, the question of punishment should never be considered by the jury in any way in deciding the case. If a defendant is convicted, the matter of punishment is for the judge alone to determine later.

DUTY TO DELIBERATE

Any verdict you reach in the jury room, whether guilty or not guilty, must be unanimous. In other words, to return a verdict you must all agree. Your deliberations will be secret; you will never have to explain your verdict to anyone.

It is your duty as jurors to discuss the case with one another in an effort to reach agreement if you can do so. Each of you must decide the case for yourself, but only after full consideration of the evidence with other members of the jury. While you are discussing the case do not hesitate to reexamine your own opinion and change your mind if you become convinced that you were wrong. But do not give up your honest beliefs solely because the others think differently or merely to get the case over with.

Remember, that in a very real way you are the judges--judges of the facts. Your only interest is to seek the truth from the evidence in the case.

VERDICT

When you go to the jury room you should first select one of your members to act as your foreperson. The foreperson will preside over your deliberations and will speak for you here in court.

A verdict form has been prepared for your convenience.

[Explain Verdict]

You will take the verdict form to the jury room and when you have reached unanimous agreement you will have your foreperson fill in the verdict form, date and sign it, and then return to the courtroom.

If you should desire to communicate with me at any time, please write down your message or question and pass the note to the Court Security Officer who will bring it to my attention. I will then respond as promptly as possible, either in writing or by having you return to the courtroom so that I can address you orally. I caution you, however, with

regard to any message or question you might send, that you should not tell me your numerical division at the time.

These are your instructions. You will now go to the jury room but do not begin your deliberations until you receive the exhibits and I tell you that you may begin your deliberations.